

FILED

FEB 22 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

MARK J. MEYER,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 05-74459

Tax Ct. No. 4397-05

MEMORANDUM^{*}

Appeal from a Decision of the
United States Tax Court

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Mark J. Meyer appeals pro se from the Tax Court's decision dismissing for failure to state a claim his petition challenging the Commissioner of Internal Revenue's ("Commissioner") notice of deficiency for tax year 2003. We have jurisdiction pursuant to 26 U.S.C. § 7482. We review de novo a Tax Court's

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

dismissal for failure to state a claim, *Grimes v. Comm'r*, 806 F.2d 1451, 1453 (9th Cir. 1986) (per curiam), and we affirm.

The Tax Court properly dismissed Meyer's amended petition for failure to state a claim because he did not set forth a clear and concise assignment of error or any facts demonstrating error in the Commissioner's determinations. *See* Tax Ct. R. 34(b)(4); *Grimes*, 806 F.2d at 1453-54. Meyer also failed to appear at the hearing on the government's motion to dismiss.

Meyer's remaining contentions are unpersuasive.

We grant the Commissioner's December 6, 2005, motion requesting sanctions in the amount of \$6,000, because the arguments raised in Meyer's appeal are frivolous. *See Grimes*, 806 F.2d at 1454. Meyer's December 22, 2005 motion to deny and strike the Commissioner's motion for sanctions is accordingly denied.

AFFIRMED WITH SANCTIONS